



207

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-10662-2024

Date of decision: 11.07.2024

Gurbans @ Gurvansh Singh @ Ravi

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Pushpinder Kaur, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0046 dated 16.02.2023 (Annexure P-1) under Sections 363/366-A of IPC (Sections 120-B/34/376(2)(n)/506 of IPC and Section 6 of POCSO Act added later on) registered at Police Station Kaithal Sadar, District Kaithal, Haryana.

The FIR (*supra*) was lodged on the statement of the complainant alleging that he has three children (two sons and one daughter). His daughter is the eldest amongst all and is 16 years of age (at the time of occurrence). It is further alleged that on 15.02.2023 at about 03:00/03:30 A.M., one Ajay son of Ram Chander enticed her by alluring on the pretext of marriage, and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner is not the main accused and the prosecutrix/victim has levelled no allegation against the petitioner in her first statement recorded under Section 164 Cr.P.C. It is further contended that the perusal of the FIR indicates that the

**CRM-M-10662-2024****-2-**

prosecutrix was enticed away by co-accused, namely, Ajay, who was having affair with the prosecutrix/victim and the material prosecution witnesses have been examined by the learned trial Court and prosecutrix has not supported the case of the prosecution while appearing as PW-1 and she was declared hostile by the learned Public Prosecutor. The petitioner is behind the bars since 17.03.2023.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the mother of the victim has supported the case of the prosecution and the petitioner helped and aided the main accused in enticing away the prosecutrix, however, she could not controvert the fact that the petitioner is not involved in any other case.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression



CRM-M-10662-2024

-3-

that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 17.03.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 03 out of 22 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Gurbans @ Gurvansh Singh @ Ravi is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

11.07.2024

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No